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*Defendants Visa Inc., Ryan McInerney,*  
*Chris Suh, Vasant Prabhu, Alfred F. Kelly, Jr.,*  
*Peter Andreski, Oliver Jenkyn, and Jack Forestell*

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**  
**SAN JOSE DIVISION**

BEIBEI CAI, Individually and on behalf of all  
 others similarly situated,

Plaintiffs,

v.

VISA INC, RYAN MCINERNEY, CHRIS  
 SUH, VASANT PRABHU, ALFRED F.  
 KELLY, JR., PETER ANDRESKI, OLIVER  
 JENKYN, and JACK FORESTELL,

Defendants.

Case No. 5:24-cv-08220-NW

**DEFENDANTS' REQUEST FOR  
 JUDICIAL NOTICE IN SUPPORT OF  
 MOTION TO DISMISS THE AMENDED  
 CLASS ACTION COMPLAINT FOR  
 VIOLATIONS OF THE FEDERAL  
 SECURITIES LAWS**

Date: December 17, 2025  
 Time: 9:00 a.m.  
 Court: Courtroom 3, 5<sup>th</sup> Floor  
 Judge: Hon. Noël Wise

Defendants Visa Inc., Ryan McInerney, Chris Suh, Vasant Prabhu, Alfred F. Kelly, Jr., Peter Andreski, Oliver Jenkyn, and Jack Forestell (“Defendants”) respectfully request that the Court consider, in connection with the Motion to Dismiss the Amended Class Action Complaint (the “Motion”), **Exhibits 1** through **7** attached to the Declaration of Mark R.S. Foster (the “Foster Declaration”).

In deciding a motion to dismiss, courts “consider the complaint in its entirety, as well as other sources courts ordinarily examine when ruling on Rule 12(b)(6) motion to dismiss, in particular documents incorporated into the complaint by reference, and matters of which a court may take judicial notice.” *Zucco Partners, LLC v. Digimarc Corp.*, 552 F.3d 981, 991 (9th Cir. 2009) (citation omitted). Defendants respectfully request that the Court consider Exhibits **1** through **7** to the Foster Declaration because each is subject to judicial notice.

Federal Rule of Evidence 201 provides that a fact is subject to judicial notice if it is not subject to reasonable dispute in that “it: (1) is generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). “[F]acts subject to judicial notice may be considered on a motion to dismiss.” *Mullis v. United States Bankr. Ct.*, 828 F.2d 1385, 1388 (9th Cir. 1987).

The Ninth Circuit has held that it is proper to take judicial notice of a public company’s historic stock price information in connection with ruling on a motion to dismiss. *See Metzler Inv. GMBH v. Corinthian Colls., Inc.*, 540 F.3d 1049, 1064 n.7 (9th Cir. 2008). For that reason, courts routinely take judicial notice of stock data like that found in **Exhibit 1**. *See, e.g., In re Atossa Genetics Inc. Sec. Litig.*, 868 F.3d 784, 799 (9th Cir. 2017) (taking judicial notice of “historical stock prices” on the ground that they “are ‘not subject to reasonable dispute’ and ‘can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned’” (citation omitted)); *In re Splunk Inc. Sec. Litig.*, 592 F. Supp. 3d 919, 930 (N.D. Cal. 2022) (same); *accord Lake v. Zogenix, Inc.*, No. 19-cv-01975-RS, 2020 WL 3820424, at \*5 (N.D. Cal. Jan. 27, 2020); *ScriptsAmerica, Inc. v. Ironridge Glob. LLC*, 119 F. Supp. 3d 1213, 1232 (C.D. Cal. 2015).

Similarly, the Ninth Circuit has long held that courts can take judicial notice of and consider information in the public domain when ruling on motions to dismiss—not for the truth of the matters in the materials, but for the information that was in the market and affecting the stock price. *See Heliotrope Gen., Inc. v. Ford Motor Co.*, 189 F.3d 971, 980-81 & n.17 (9th Cir. 1999) (affirming court’s taking judicial notice of news articles). Following *Heliotrope General*, courts routinely take judicial notice of analyst reports when ruling on motions to dismiss securities fraud complaints. *See, e.g., In re Apple Inc. Sec. Litig.*, No. 19-cv-02033-YGR, 2020 WL 2857397, at \*6 (N.D. Cal. June 2, 2020); *In re Amgen Inc. Sec. Litig.*, 544 F. Supp. 2d 1009, 1023-24 (C.D. Cal. 2008); *In re Century Aluminum Co. Sec. Litig.*, No. C 09-1001 SI, 2011 WL 830174, at \*9 (N.D. Cal. Mar. 3, 2011) (noting that “courts routinely take judicial notice of analyst reports”), *aff’d*, 729 F.3d 1104 (9th Cir. 2013); *Zamir v. Bridgepoint Educ., Inc.*, No. 15-CV-408 JLS (DHB), 2016 WL 3971400, at \*4 (S.D. Cal. July 25, 2016) (“While the . . . analyst reports . . . may not be considered ‘for the truth of their contents’ . . . , the Court may properly look to those reports to understand the ‘total mix’ of information available to investors over the class period.” (third ellipsis in original) (citation omitted)); *Patel v. Parnes*, 253 F.R.D. 531, 548 (C.D. Cal. 2008) (taking judicial notice of “the content of the reports and the date they were disclosed to the market”); *Nathanson v. Polycom, Inc.*, 87 F. Supp. 3d 966, 983 & n.4 (N.D. Cal. 2015) (granting judicial notice of analyst reports in evaluating loss causation in connection with motion to dismiss).

Accordingly, this Court should take judicial notice of the analyst reports that are attached to the Foster Declaration as **Exhibits 2** through **7**. Consistent with the foregoing cases, Defendants ask the Court to take judicial notice of the content and date of those reports, not for the truth of the statements made therein.

DATED: September 12, 2025

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

By: /s/ Mark R.S. Foster

Mark R.S. Foster

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